

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

MIROSLAVA TORRES RODRIGUEZ,

Petitioner,

v.

U.S. DEPARTMENT OF HOMELAND
SECURITY, *et al.*,

Respondents.

NO. C13-42-RSM-JPD

REPORT AND
RECOMMENDATION

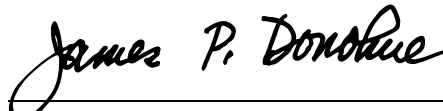
On January 7, 2013, petitioner Miroslava Torres Rodriguez filed a *pro se* Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging the lawfulness of her continued immigration detention. Dkt. No. 1. On February 11, 2013, however, the government filed a motion to dismiss along with documentation which indicates that petitioner was released from immigration detention pursuant to an order of supervision and is no longer detained. Dkt. Nos. 8 and 9. The government asserts that petitioner's habeas petition is, therefore, moot and should be dismissed.

Under 28 U.S.C. § 2241, a writ of habeas corpus "shall not extend to a prisoner unless . . . [sh]e is in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(3). The "in custody" requirement is satisfied at the time the petition is

1 filed. *Spencer v. Kemna*, 523 U.S. 1, 7 (1998) (citations omitted). To maintain a habeas claim,
2 a petitioner must continue to have a personal stake in the outcome of the suit throughout “all
3 stages of federal judicial proceedings.” *United States v. Verdin*, 243 F.3d 1174, 1177 (9th Cir.
4 2001). At any stage of the proceedings, a petition may become moot “because it no longer
5 present[s] a case or controversy under Article III, § 2, of the Constitution.” *Spencer*, 523 U.S.
6 at 7. “For a habeas petition to continue to present a live controversy after the petitioner’s
7 release or deportation, however, there must be some remaining collateral consequences that
8 may be redressed by success on the petition.” *Abdala v. INS*, 488 F.3d 1061, 1064 (9th Cir.
9 2007) (citing *Spencer*, 523 U.S. at 7).

10 Here, the relief sought in the habeas petition –release on bond or reasonable conditions
11 – is no longer available and there are no collateral consequences that may be redressed. *See id.*
12 (“[W]here the grounds for habeas relief will not redress collateral consequences, a habeas
13 petition does not continue to present a live controversy once the petitioner is released from
14 custody.”). The habeas petition, therefore, has become moot and should be dismissed. *See id.*;
15 *see also Cooney v. Edwards*, 971 F.2d 345, 346 (9th Cir. 1992)(holding that the District Court
16 properly dismissed plaintiff’s claims that had become either moot or unripe).

17 DATED this 19th day of February, 2013.

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19 JAMES P. DONOHUE
20 United States Magistrate Judge
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